

# Adopted by House 4-11-2013

SB464 H JUD AM 4-10 #1

The Committee on the Judiciary moves to amend the bill on page two, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following language:

"That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-45-1, §16-45-2, §16-45-3, §16-45-4 and §16-45-5, all to read as follows:

1 **ARTICLE 45. TANNING FACILITIES.**

2 **§16-45-1. Definitions.**

3 As used in this article:

4 (1) "Photo therapy device" means a device used for exposure to  
5 daylight or to specific wavelengths of light using lasers,  
6 light-emitting diodes, fluorescent lamps, dichroic lamps or very  
7 bright, full-spectrum light, usually controlled with various  
8 devices.

9 (2) "Tanning device" means any equipment that emits radiation  
10 used for tanning of the skin, such as a sun lamp, tanning booth or  
11 tanning bed, and includes any accompanying equipment, such as  
12 protective eye wear, timers and handrails.

13 (3) "Tanning facility" means any commercial location, place,  
14 area, structure or business where a tanning device is used for a  
15 fee, membership dues or other compensation.

16 **§16-45-2. Exception for health care providers.**

17 Nothing in this article may be construed as prohibiting any

1 health care provider licensed under chapter thirty of this code  
2 from performing any action within the scope of his or her practice  
3 that results in prescribing the use of a photo therapy device to a  
4 patient regardless of the patient's age for treatment of a medical  
5 condition.

6 **§16-45-3. Operation standards.**

7       (a) A tanning facility shall provide to any patron who wishes  
8 to use a tanning device located within its tanning facility a  
9 disclosure and consent form relating to use of a tanning device  
10 that contains the current United States Food and Drug  
11 Administration warning as follows: "Danger. Ultraviolet Radiation.  
12 Follow instructions. Avoid overexposure. As with natural sunlight,  
13 overexposure can cause eye and skin injury and allergic reactions.  
14 REPEATED EXPOSURE MAY CAUSE PREMATURE AGING OF THE SKIN AND SKIN  
15 CANCER. WEAR PROTECTIVE EYEWEAR; FAILURE TO DO SO MAY RESULT IN  
16 SEVERE BURNS OR LONG-TERM INJURY TO THE EYES. Medications or  
17 cosmetics may increase your sensitivity to the ultraviolet  
18 radiation. Consult physician before using tanning device if you  
19 are using medications or have a history of skin problems or believe  
20 yourself especially sensitive to sunlight. If you do not tan in  
21 the sun, you are unlikely to tan from use of this product."

22       The disclosure and consent form must have a place for the  
23 patron's signature and the date. A signed and dated copy of the  
24 disclosure and consent form shall be maintained by the tanning  
25 facility and remains valid for one year from the date it was  
26 signed.

1 (b) All patrons are required to present proof of age prior to  
2 use of a tanning device. Proof of age shall be satisfied with a  
3 driver's license or other government-issued identification  
4 containing the date of birth and a photograph of the individual.  
5 Persons under the age of eighteen may not be permitted to use a  
6 tanning device without the prior written consent of the person's  
7 parent or legal guardian. Photographic identification of the  
8 parent or legal guardian is required. A copy of the signed  
9 parental or legal guardian consent shall be maintained by the  
10 tanning facility and remains valid for one year from the date it  
11 was signed. Persons under the age of fourteen may not be permitted  
12 to use a tanning device.

13 **§16-45-4. Local health department authority to inspect.**

14 Local health departments shall have the authority to enter and  
15 inspect a tanning facility to determine compliance with the  
16 requirements of this article.

17 **§16-45-5. Violations and penalties.**

18 (a) Any owner of a tanning facility who fails to obtain  
19 parental consent for a minor under the age of eighteen or otherwise  
20 violates the requirements of this article is guilty of a  
21 misdemeanor and, upon conviction thereof, for a first offense,  
22 shall be fined \$100.

23 (b) For a second offense, the owner is guilty of a misdemeanor  
24 and, upon conviction thereof, shall be fined not less than \$250 nor  
25 more than \$500.

26 (c) For a third offense or subsequent offense, the owner is

1 guilty of a misdemeanor and, upon conviction thereof, shall be  
2 fined not less than \$500 nor more than \$1,000."